

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
REGULAR MEETING
OCTOBER 25, 2005
DRAFT

Attachment # 2
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The Board of County Commissioners of Leon County, Florida, met in regular session October 25, 2005 at 3:00 p.m. with Chairman Thael presiding.

Present were Commissioners Proctor; Sauls; Winchester; Grippa; Rackleff; and DePuy. Also present were County Attorney Herb Thiele; County Administrator Parwez Alam; Director of Finance Bill Bogan, Jr.; and Secretary Diane F. Norvell.

Invocation and Pledge of Allegiance

The Invocation was provided by Commissioner Winchester, at the invitation of Commissioner Thael followed by the Pledge of Allegiance to the Flag led by Commissioner Winchester.

Awards and Presentations

Commissioner Thael invited County Administrator Alam to show the County Picnic Video filmed by Alan Rosenzweig, OMB Director. The group was highly entertained by some of the aspects of the "Hoe Down" video. Commissioner Thael thanked everyone who helped organize the 1st Annual County Employee Picnic. Commissioner Thael stated he enjoyed the event and hoped there would be many more to come.

Consent

ACTION TAKEN: Items #16, #25, and #29 were pulled for discussion. Commissioner Sauls moved, duly seconded by Commissioner DePuy to approve Staff recommendation of the remaining consent items. The motion carried unanimously 7-0.

1. Approval of Payment of Bills and Vouchers Submitted for Approval for October 25, 2005, and Pre-approval Payment of Bills and Vouchers for the Period October 26 through November 7, 2005

The Board approved Option 1: Approve payment of bills and vouchers submitted for approval for October 25, 2005, and pre-approve payment of bills and vouchers for the October 26 through November 7, 2005.

2. Authorization to Join the Florida Intergovernmental Finance Commission

The Board approved Option 1: Approve the County's joining of the Florida execute the necessary agreements.

3. Approval of Financing Agreement and Associated Budget Amendment for the Energy Savings Project

The Board approved Option 1: Approve the following: a.) The Resolution authorizing the equipment lease to Banc of America Leasing & Capital, LLC and delegating the authority to execute the lease, subject to modification, to the County Administrator (Attachment #1). b.) The Resolution and associated budget amendment amending the current year budget to realize the load proceeds (Attachment #2).

4. Authorization to Carry Forward FY05 Appropriations for the State Housing Initiative Partnership (SHIP) and the Housing Finance Authority (HFA)

The Board approved Option 1: Authorize FY05 appropriations for the State Housing Initiative Partnership and the Housing Finance Authority to be carried forward into the FY06 budget and approve the associated Resolution and budget amendment.

5. Approval of a Modification to the Domestic Security Grant Agreement

The Board approved Option 1: Approve the modification to the Domestic Security Grant and Authorize the Chairman to execute the Modification Agreement.

6. Approval of Agreement with Legal Services of North Florida, Inc. to Provide Legal Aid Services in Leon County

The Board approved Option 1: Approve the attached Agreement between Leon County and Legal Services of North Florida, Inc.

7. Approval of FY 2004/05 Year End Budget Adjustments

The Board approved Option 1: Approve FY2004/2005 Year-End Budget Adjustment Resolution and associated Budget Amendment.

8. Acceptance of Third Quarter Status Report on 2005

The Board approved Option 1: Accept the Third Quarter Status Report on 2005 Board Retreat Priorities and Administrative Issues.

9. Approval of a Resolution Supporting Danfoss Turbocor Compressors, Inc. as a "Qualified Target Industry" Applicant

The Board approved Option 1: Approve the Resolution supporting the Danfoss Turbocor Compressors Inc., as a QTI applicant, approval of the

required local match of \$105,000 and direction for the match to be paid from the QTI account at the EDC based upon the company's job creation performance.

10. Ratification of Board Actions Taken at the October 11, 2005 Workshop on Emergency Preparedness and Response for Leon County

The Board approved Option 1: Ratify the Board actions taken at the October 11, 2005 Workshop Emergency Preparedness.

11. Approval of Appointments to the Watershed Management Policy Board

The Board approved Option 1: Approve the appointments to the Watershed Management Policy Board and Technical Support Staff as presented in Table #1.

12. Authorization for staff to apply for the 2006 NACo Small Grant Program for Counties to divert mentally ill from jail

The Board approved Option 1: Authorize staff to apply for the 2006 NACo Small Grant Program for Counties to divert mentally ill from jail.

13. Approval to Renew Primary Healthcare Program Contracts with Modifications for FY 05/06

The Board approved Option 1: Approve the renewal of the Primary Healthcare Program Contracts, with modifications, with Bond Community Health Center, Neighborhood Health Services, the Capital Medical Society Foundation, and FAMU College of Pharmacy, and authorize the Chairman to execute.

14. Approval to Award Three Housing Rehabilitation Contracts To Blue Chip Construction Co., Inc. Using State Housing Initiatives Partnership Funds

The Board approved Option 1: Approve the award of three Housing Rehabilitation Contracts to Blue Chip Construction Co., Inc. using State Housing Initiatives Partnership Funds.

15. Approval to Award Two Housing Rehabilitation Contracts to Blue Chip Construction Co., Inc. Using State Housing Initiatives Partnership Funds

The Board approved Option 1: Approve the award of two Housing Rehabilitation Contracts to Blue Chip Construction Co., Inc. using State Housing Initiatives Partnership Funds.

16. Approval to Renew Contract with Apalachee Center, Inc. for Funding of Marchman and Baker Act Services

This item was pulled for discussion by Commissioner Grippa.

County Administrator Alam informed the Commission that this year's FY 05/06 payment would be \$602,281 which is slightly more than last year's payment of \$589,849. County Administrator Alam reported that last year the Center added ten beds. County Administrator Alam stated that Mr. Joe Sharp, Health and Human Services Director was present to answer questions.

- Commissioner Grippa asked Staff how much money the County gave Apalachee Center separate and aside from this. Staff said they were not aware of any monies given to the Center. Commissioner Grippa asked if we have already given Apalachee Center money; could the County be reimbursed. Commissioner Grippa stated he thought the County had given the Center monies for additional beds. Staff responded that was correct but those funds were part of a contract included in last year's budget cycle.

Commissioner Grippa stated there are certain things the Board has to fund under Article V and then there are additional dollars put in the fund that come out of general revenue amounting to about \$200,000 for additional beds. Commissioner Grippa indicated he wanted to do an audit to make sure Leon County residents are using the beds. Commissioner Grippa reported he had two questions for Mr. Sharp 1) Is the audit complete, and 2) Is that number that was given separate and aside from this going to be taken out of these dollars.

- Mr. Sharp said that the additional dollars provided to the Center last year was for the County's 25% of the cost of operation of the Center which raised last year's budget total to \$589,000. This year's budget total is a 2.1% increase. Mr. Sharp reported that Leon County residents are using the additional beds.
- Commissioner Grippa, again asked is the audit that the County asked for done. Mr. Sharp responded no. Commissioner Grippa asked if the County has the ability to contract with another entity. Mr. Sharp said no; the County is required by statute to pay Apalachee Center. Commissioner Grippa said it sounded like the County Attorney was saying that we could "bid this out".
- County Attorney Thiele indicated that the services can be bid out or contracted out; but, the question is whether there is another entity that could provide the Baker Act Services required by State law.
- Commissioner Grippa asked if this matter could wait a week or so until Staff sees if there is another eligible Marchman and Baker Act Services facility approved in Leon County.

Commissioner Grippa moved, seconded by Commissioner Proctor to continue this item for two weeks until staff can come back with a list of all 'approved' facilities for Baker Act and Marchman Act facilities in Leon County. The motion carried unanimously 7-0.

- Commissioner Proctor stated he thought the five year extension in the contract is too long, especially if the Board is looking at the potential for using other providers. Commissioner Proctor pointed out that Clause VI of the Agreement that detailed the conditions of breach that would hold the County 'liable to fulfill' reinforces his opinion that five years is too long. Commissioner Proctor indicated he would like Staff to remove the five year clause.
 - Commissioner Proctor then pointed to Clause IV which stated that Apalachee Center had agreed to submit a demographic report declaring the number of clients serviced, clients denied admission and the reason for the denial. Commissioner Proctor asked if that report had been submitted. Mr. Sharp indicated that it had.
 - Commissioner Thaelle asked who was responsible for conducting the audit. Mr. Sharp indicated it was his understanding that Staff would conduct the audit, unless the Board directed otherwise.
 - Commissioner Thaelle asked what was the status of the audit. Mr. Sharp stated the audit would be complete within two weeks.
17. Approval to Renew Contract with Children's Home Society for the Provision of Child Protection Examination Services
- The Board approved Option 1: Approve the renewal of the annual Agreement with Children's Home Society for the period of one year, from October 1, 2005 to September 30, 2006, for the provision of child protection examinations, and authorize the Chairman to execute.
18. Approval to Renew the Agreement with Open Door women's Clinic for the Choose Life License Plates Program for FY 05-06
- The Board approved Option 1: Approve the Agreement for the allocation of \$21,574 from the Choose Life License Plates Program to Open Door Women's Clinic for FY 05-06, and authorize the Chairman to execute.
19. Adoption of a Resolution for Re-designation of the Tallahassee-Leon County Enterprise Zone
- The Board approved Options 1 and 2: 1) Adopt the Resolution that authorizes the re-designation of the State-designated Tallahassee-Leon County Enterprise Zone to continue participation in the Florida Enterprise Zone Program past the expiration date of December 31, 2005, until December 31, 2015. 2) Approve the recommended boundary changes as provided in this agenda.
20. Request to Reschedule the November 22, 2005 Workshop on Growth and Environmental Management Permitting Process and Development Initiative to Tuesday, March 28, 2006 from 12:00 – 3:00 p.m.

The Board approved Option 1: Reschedule the Workshop on the Growth and Environmental Permitting Process from November 22, 2005 to March 28, 2006 from 12:00 – 3:00 p.m.

21. Approval to Allow Development Review and Permitting by Jaks Engineering of the Proposed Oak Grove Subdivision in Advance of Voluntary Annexation by the City of Tallahassee

The Board approved Option 1: Approve the request from Mr. Jacob Jaks, P.E. to proceed with the development review and permitting process with the City of Tallahassee in advance of voluntary annexation of the property located on the east side of Meridian Road north of Summerbrooke.

22. Approval of an Agreement to Award the Bid for Field Fence to Phoenix Construction and Fencing and to Extend an Agreement with Phoenix for Chain Link Fencing

The Board recommended Options 1 and 2: 1) Approve the Continuing Supply Agreement for Field Fence Materials and Installation to Phoenix Construction and Fencing at the bid prices and authorize the Chairman to execute. 2) Reject all bids and extend the 2004/2005 Agreement with Phoenix Construction and Fencing through September 30, 2006, for Chain Link Materials and Installation at the rates defined in the Analysis section of this agenda item (Table 1), in a form approved by the County Attorney's Office, and authorize the Chairman to execute.

23. Approval of Reclassification of Position in MIS

The Board approved Options 1 and 2: 1) Approve the reclassification of a Document Scanner position from OPS to pay grade 77 Career Service. 2) Approve the budget amendment to transferring funds from CIP accounts to the personnel operating expenses accounts.

24. Approval to Award Bid to Aqua Masters Irrigation, Inc. in the Amount of \$66,720 for the Purchase of Two Trailer-Mounted Trash Dewatering Pumps

The Board approved Option 1: Award the bid to Aqua Masters Irrigation, Inc. for the purchase of the Trailer Mounted Trash/Dewatering Pumps at a cost of \$66,720.

25. Authorization to Amend Purchaser for a Surplus Parcel on Putnam Drive

This item was pulled for discussion by County Administrator Alam.

- County Administrator Alam informed the Board that Staff has been unable to contact the highest bidder for this project, Capital City Interior Trim. County Administrator Alam said he pulled this item because the name on the bid was incorrect. The name of the second highest bidder

is Derrick Danzy who was present. Staff recommends the bid be awarded to Mr. Derrick Danzy for \$3,200.

Speakers:

- Mr. Derrick Danzy, 102 Dixie informed the Board he was in fact the second highest bidder. He is also an adjacent land owner so the Board would be satisfying another option by awarding him the bid.
- Mr. Chase Goggans, 1809 Mayfair Rd. wanted the bidding to be opened back up because he just happened to miss out on this bid.

Commissioner Winchester moved, seconded by Commissioner Proctor to approve Option 1 as amended: Accept second highest bidder's (Will Cannon Derrick Danzy) original bid of \$3,200 to purchase the Putnam Drive surplus property.

26. Request to Schedule a Public Hearing Regarding Intent to Use the Uniform Method of Levy, Collection, and Enforcement of Non-Ad Valorem Assessments for Oakhill Farms Unit III 2/3 Project for Tuesday, December 13, 2005 at 6:00 p.m.

The Board approved Option 1: Schedule a Public Hearing for December 13, 2005 at 6:00 p.m. regarding intent to use the uniform method of levy, collection and enforcement of non-ad valorem assessments for Oakhill Farms Unit III Subdivision 2/3 Paving Project.

27. Request to Schedule a Public Hearing Regarding Intent to Use the Uniform Method of Levy, Collection, and Enforcement of Non-Ad Valorem Assessments for Oakhill Farms Unit III 2/3 Project for Tuesday, December 13, 2005 at 6:00 p.m.

The Board approved Option 1: Schedule a Public Hearing for December 13, 2005 at 6:00 p.m. regarding intent to use the uniform method of levy, collection and enforcement of non-ad valorem assessments for Journey's End Subdivision 2/3 Paving Project.

28. Request to Schedule a Public Hearing to Adopt Revisions to the Solid Waste Ordinance Establishing tipping Fee Rates for November 8, 2005 at 6:00 p.m.

The Board approved Option 1: Approve the request to schedule public hearing, and set public hearing for 6 o'clock p.m. on November 8, 2005.

29. Request to Schedule a Public Hearing on Amending Chapter 10, Article VII, Section 173, Leon County Code of Laws, Otherwise Known as the Redevelopment Allowances Ordinance for November 8, 2005

This item was pulled for discussion by Commissioner Winchester:

- County Attorney Thiele informed the Board this item is a draft of a proposed Ordinance amending the section of the County Code that speaks

to redevelopment. This proposal is a result of conversations the County Attorney's Office has had with County Growth Management Staff and Commissioner Winchester. County Attorney Thiele explained the Amendment speaks to making a further modification to the redevelopment provisions that would allow a developer to: not increase the size of the impervious surface; but, under certain conditions be allowed to either use an off-site facility or pay an "in-lieu" fee while using the off site facility they would have to meet the County's stormwater requirements in the facility. County Attorney Thiele stated if the Board is interested in pursuing this matter the recommended option is to schedule a Public Hearing.

Speakers:

- Ms. Becky Subrahmanyam, 1257 Cornerstone Lane distributed two hand-outs. The first was a letter. The second was a comparison chart she developed. She thinks the proposed Amendment keeps the County from meeting the stormwater standards the Comp Plan calls for.
- Mr. Louis St. Petery, 3101 Livingston Road stated he is similarly opposed to this 'loophole' in the amendment. He said there is no hard data to suggest that off-site mitigation of stormwater is going to be as effective as on-site mitigation.
- Ms. Margaret Leonard, 2300 Kami Creek Trail referred to an article reporting a \$10 billion profit for Walmart saying she believes they can afford to obey the law and sees this amendment as changing the law for Walmart.
- Ms. Ann Bidlingmaier, 1920 Harriet Dr. stated she was shocked to see this off-site stormwater provision because it seems like "Walmart is driving this bus" and the County should not allow off-site mitigation in a Lake Protection Zone.
- Mr. George E. Lewis, II, 203 N. Gadsden Street #6 stated this draft is premature at best because it has not been through the Ordinance Adoption Policy procedure. He said this Amendment would violate several requirements of the Comp Plan. A one time "fee in-lieu" will not address an ongoing problem.
- Ms. Sally McCabe, 2808 Wood Hollow Court, stated she is there representing a number of people who are very aware of the power the Board holds over protecting their community from Walmart; and, noted many citizens in attendance opposed the Amendment. She said there are plenty of places to shop and they do not need another big chain store in their community. She made an appeal for small businesses and said she is ordering a brochure called "Shameless" for the Commissioners to read.
- Ms. Linda Jamison, 319 E. Park Tally, appearing as a representative of the Big Bend Group of the Sierra Club, with a membership of eleven counties and 2,000 members in this part of the state. She expressed concern over this item not being presented to the GEM Citizen's User

Group for review and stated this Amendment is not a solution to the water quality issues.

Commission Discussion

- Commissioner Winchester informed the group that this item was not brought forward by Walmart; but by him. Commissioner Winchester stated this item is on the consent agenda to schedule two Public Hearings to talk about, discuss, and ultimately vote as to whether or not the Commission even wants to schedule this matter as a Public Hearing. Commissioner Winchester stated the Commission needs to start looking at the issue of redevelopment. Commissioner Winchester apprized the group he has met with Staff, a Neighborhood Association, Mr. George Lewis, and Walmart among others. Walmart's proposal is to do spray irrigation in the ravine system behind the existing Sam's Club to meet the Lake Jackson fifty year standard. Commissioner Winchester does think it is worthwhile to consider off-site stormwater mitigation for sites that are constrained in redevelopment areas, even in Lake Protection or especially in Lake Protection. Commissioner Winchester thanked everyone for coming.
- Commissioner Rackleff expressed concern over holding the Public Hearing on November 8th since he did not believe that would give the Board enough time to address this issue properly.

Commissioner Winchester moved, seconded by Commissioner Grippa to approve Option 1, as amended: Approve request to schedule first of two public hearings to be held on November 8, 2005 December 13, 2005 and schedule second public hearing for January 2006. The motion carried 7-0.

- Commissioner Thael stated he had strong reservations about this Amendment. Commissioner Thael stated he is willing to talk about the Ordinance but wants it be on the record that if the vote was taken tonight he would definitely be voting against this Ordinance. Commissioner Thael agrees the Board needs to take some action to support redevelopment of properties but that this particular proposal might work better in other parts of the community.

Citizens to be Heard on Non-Agendaed Items (3 minute limit; non – discussion by Commission)

Speakers:

The following speakers were present to address the Pine Dove Conservation Community Subdivision

- Mr. Russel Frydenborg, 5016 Crestwood Ct. declared he wanted to make the Commissioners aware of the Conservation Subdivision loophole. This area is a 210 acre tract approximately 50 percent of which is wetlands and ponds. The zoning is 1 house per 3 acres. However with the conservation subdivision (rule) by leaving that 50 percent of unbuildable land the developer gets a huge density incentive. They can build on ½ acre lots in this area. He is concerned about 'nitrate treatments'. The current density

without having any improved septic aerobic type systems that would treat that nitrate would involve more loading to an area that is already on the impaired waters list.

- Mr. Ken Morrison, 6273 Crestwood Drive opposes the proposed Pine Dove Subdivision with most lots averaging .73 acres. Most of the citizens present who are opposing this development bought land out in the County because they did not want to live in the City. Many were required to buy a minimum of 2 acres before they could build.
- Ms. Kim Scott, 9135 Yashuntafun Road asked to be placed on the agenda for the next meeting. She would like to see the Pine Dove development moved from a "Type B" development to a "Type C". A large number of people stood up who were also opposed to the Pine Dove development.
- Ms. Clara White, 6133 William Road informed the Board she is the longest time resident of that area. They do not need 144 septic tanks draining. If Talquin is going to furnish water, let them furnish a sewer system.

Commissioner Rackleff moved, seconded by Commissioner Grippa to waive the rules so the Board could address this issue. The motion carried 6-0 (with Commissioner Proctor out of Chambers).

- Commissioner Rackleff stated he met with residents last week who have serious concerns about the Pine Dove issue.

Commissioner Rackleff moved, seconded by Commissioner DePuy to elevate review to a "Type C".

- County Administrator Alam asked how the Board can elevate a project to a "Type C".
- County Attorney Thiele informed the Commission that at the present time the Board does not have the authority to elevate a "Type B" development to a "Type C" development.

There was Board discussion.

- Commissioner Thaele stated this Ordinance looks like a disingenuous effort to evade greater scrutiny where a substantial part of this property is completely undevelopable. Commissioner Thaele said the Commissioners need to look at how the Board reviews these matters. Commissioner Thaele stated he will support this new direction and this motion and that in the future these conservation subdivisions issues will automatically come to the Board of County Commissioners for a review.
- Commissioner Winchester said no; and that he will not accept these matters automatically coming before the Board for review. He will accept a review of this particular matter because it sounds like it has strayed from the concept it was originally intended to follow.

Commissioner Rackleff's motion was modified to request Staff to bring back a review of the project (Pine Dove), if legally possible, and an item regarding amending Conservation Subdivision Ordinances to prevent

inappropriate densities, and to consider adopting an Ordinance change to allow Board discretion on elevating "Type B" development reviews to a "Type C". The motion passed 6-0 (with Commissioner Proctor out of Chambers).

- Commissioner Thaelle asked County Attorney Thiele if the Board could address the Ordinance changes prior to DRC Review of this particular project and apply the changed rules to this Application. County Attorney Thiele said no.
- Commissioner Thaelle indicated this particular development would be decided by Staff at the Development Review Committee. Commissioner Thaelle said the Board would however have a discussion about the Ordinance. Commissioner Thaelle stated he initially supported this Ordinance because it was 'density neutral'.

General Business

30. Approval of Memorandum of Understanding Regarding Proposed Incentive Package for "Project North" Corporate Relocation

- County Administrator Alam informed the Board the amount of incentives is over \$7 million and that Staff has been battling with the EDC and the City Staff.
- Mr. Benjamin Pingree, Assistant to the County Administrator explained that the agreement essentially provides for the company's relocation in Leon County, specifically Innovation Park bringing with them over 150 targeted industry jobs in exchange for the following: Essentially its an exchange for the construction of a new headquarters, manufacturing and research facility at Innovation Park, that includes specifically from the County \$813,500 toward construction, which the City is matching. Innovation Park is committing \$450,000 and dedicating three adjacent lots. The City and County have agreed to provide about \$800,000 each in incentives. Should the company cease to exist for any reason the County would have the ability to recoup a portion or all of its incentives. The MOU has been approved by the company, Danfoss Turbocor Compressors and the LCRDA. City Commission is expected to approve the MOU October 26th, 2005. Staff is recommending the Commission's approval today.

There was Board discussion.

- Commissioner Sauls noted she serves on the Innovation Park Board and this matter has been before the Park Board. The Innovation Park Board is donating the property, plus the cash as a full partner in this venture and is now looking to the County to fulfill its obligation. Commissioner Sauls thanked Mr. Brad Day for all his hard work.

Commissioner Sauls moved, seconded by Commissioner Rackleff to approve Option 1: Approve the Memorandum of Understanding between the County, City, Leon County Research and Development Authority, and

Danfoss Turbocor Compressors, Inc. The motion passed 6-0, with Commissioner Proctor out of Chambers.

31. Consideration of Voluntary Annexation and Contraction of Welaunee Plantation

- County Administrator Alam informed the Board that Staff recommends the Board not object to the Annexation.
- Commissioner Grippa said he is going to object. Commissioner Grippa reminded the Board this issue came up at a Mayor/Chair meeting that called for certain criteria that still has not been met.

Commissioner Grippa moved, seconded by Commissioner Winchester, to approve Option 2: Object to the annexation and contraction of Welaunee Plantation, Phase III and initiate mediation procedures required by the Comprehensive Plan.

- Commissioner Grippa requested that the City go through this particular process with the County. Commissioner Grippa recalled this issue came before a Mayor/Chair meeting asking for certain criteria because this development will have 5,000 houses that go to currently flooded neighborhoods, Lafayette Oaks, and Midyette Plantation. Commissioner Grippa expressed the need to discuss this issue since the proposed annexation to the City means the development does not have to provide any of the stormwater treatment.
- Commissioner Rackleff stated he is concerned that this Annexation is in direct conflict to the County's Agreement with the City. Commissioner Rackleff stated this is a requirement that the County reached with the City on re-routing the transmission line part of the Agreement stating that the City complete the annexation of Welaunee Plantation. Commissioner Rackleff asked the maker of the motion if he was aware of the indirect implications of this issue and the importance of following through on the County's agreement with the City.

Commissioner Rackleff asked the maker of the motion to amend the motion.

- Commissioner Grippa asked if the map was referring to this area as a part of the transmission line or was it just the property that was needed 'for' the transmission line. County Attorney Thiele responded that was his recollection. Commissioner Grippa confirmed they were addressing just the property needed 'for' the transmission line. Commissioner Grippa stated the map included property that would have other ramifications that included, if not Lafayette Oaks, then Midyette Plantation. Commissioner Grippa reminded the Commission the Tri-Basin Commission was promised a stormwater study from Welaunee they have not received.

- There was Board discussion during which the Commissioners agreed the terms of the Agreement needed clarification regarding the actual 'location of the annexation area for the transmission line'.

Commissioner Grippa withdrew his motion.

Commissioner Grippa moved, seconded by Commissioner Winchester to continue this item until the County Attorney can bring back pertinent information and requested the Chairman to bring the concerns of the Board to Mayor/Chair meeting. The motion carried 6-0, with Commissioner Proctor out of Chambers.

32. Approval of Agreement Awarding Bid to Peavy & Sons in the Amount of \$778,199 for the Construction of Pimlico Sidewalk

County Administrator Alam presented the item for approval.

Commissioner Sauls moved, seconded by Commissioner DePuy to approve Option 1: Approve the Agreement awarding bid to Peavy and Sons Construction Company, Inc. for the construction of the Pimlico Road sidewalk in the amount of \$778,199 and authorize the Chairman to execute. The motion carried 6-0, with Commissioner Proctor out of Chambers.

Scheduled Public Hearings, 6:00 p.m.

33. Continuation of First and Only Public Hearing to Adopt a Proposed Ordinance Amending Chapter 11, Article XV11, Section 11-531, Code of Laws of Leon County, Entitled "Creation of a Primary Health Care Implementation Advisory Board"

Commissioner Sauls moved, seconded by Commissioner DePuy to approve Option 1: Conduct the first and only Public Hearing and adopt the proposed Ordinance amending Chapter 11, Article XVII, Section 11-531 of the Code of Laws of Leon County, entitled "Creation of Primary Healthcare Implementation Advisory Board" and authorize the Chairman to execute. The motion carried 6-0, with Commissioner Proctor out of Chambers.

34. Second and Final Public Hearing on a Rezoning Application on Property in the Crump Road Area, Including Foxwood Glen Subdivision, from Rural to Urban Fringe

Commissioner Winchester moved, seconded by Commissioner Rackleff to approve Option 1: Conduct the second and final public hearing and adopt the proposed Ordinance amending the Official Zoning Map, on a rezoning of 242.35 acres located in the Crump Road area including Foxwood Glen Subdivision, from the Rural zoning district to the Urban Fringe zoning district

based upon the findings of the Board set forth herein. The motion carried 6-0, with Commissioner Proctor out of Chambers.

35. First and Only Public Hearing on the River's Landing Subdivision Type "C" Site and Development Plan

Commissioner Winchester moved, seconded by Commissioner Rackleff to approve Option 1: Conduct the first and only Public Hearing and approve the deviation from development standards request and the proposed Type "C" Site and Development Plan for the proposed River's Landing Residential Subdivision based on the findings of fact, conclusions of law, and conditions of approval set forth in the recommendation of the DRC. The motion carried 6-0, with Commissioner Proctor out of Chambers.

36. First and Only Public Hearing on the River's Landing Subdivision Type "C" Site and Development Plan

Commissioner Sauls moved, seconded by Commissioner Winchester to approve Option 1: Conduct the first and only Public Hearing and approve the deviations from development standards request and the proposed Type "C" Site and Development Plan for the proposed Jordon's Pass Residential Subdivision based on the findings of fact, conclusions of law, and conditions of approval set forth in the recommendation of the DRC. The motion carried 6-0, with Commissioner Proctor out of Chambers.

37. First and Only Public Hearing on the Chason Woods Subdivision Type "C" Site and Development Plan

Commissioner Winchester moved, seconded by Commissioner Rackleff, to continue this item to Tuesday, November 8, 2005 at 6:00 p.m. The motion carried 6-0, with Commissioner Proctor out of Chambers.

38. First of Two Public Hearings on an Ordinance Amending Chapter 10, Article XIV, Division 1, Leon County Code of Laws, Regarding Aquifer/Wellhead Protection

County Attorney Thiele informed the Board this item is a change to the Wellhead Protection Ordinance to 'clean it up'. County Attorney Thiele stated this item is the product of work both the City and County Staff have been performing for 6 months. The County Attorney's Office recommends this item for approval.

Commissioner DePuy moved, seconded by Commissioner Sauls to approve Option 1: Conduct the first of two public hearings and pursue the adoption of an Ordinance Amending Chapter 10, Article XIV, Division 1, of the Leon County Code of Laws Regarding Aquifer/Wellhead Protection. The motion carried 7-0.

- Commissioner Grippa asked the County Attorney what specifically this Ordinance does.
 - County Attorney Thiele stated this Ordinance is a 'clean-up' of the enforcement mechanisms and the definitional sections. It also clarifies citations are to be processed and gives a better definition of what areas of influence we are protecting. County Attorney Thiele stated this Ordinance gives clarity to the property owner. Commissioner Grippa asked if the Board was in any way taking away the ability of the property-owner to develop his or her land.
 - County Attorney Thiele said no. This Ordinance does, however provide certain restrictions for one's ability to put hazardous uses near wellheads. County Attorney Thiele informed the Board the Ordinance also protects the aquifer in that the wellheads are not going to draw down the aquifer in bad locations. County Attorney Thiele stated this Ordinance speaks more to cite planning.
 - Commissioner Grippa stated when he looks at anything that is an omnibus type of ordinance it becomes difficult to make sure that regarding #B of 10-902, for example, the word 'hazardous' does not appear. Commissioner Grippa expressed concern after noting that there is an oversight of City Inspectors.
 - County Attorney Thiele said the Board has already entered into an Intra Local Agreement with the City which allows the City to enforce within the city limits. Commissioner Grippa asked what an Aquifer Protection Coordinator refers to. County Attorney Thiele informed Commissioner Grippa it is the title of a current Staff person. Commissioner Grippa asked the County Administrator, just out of curiosity the name of the Aquifer Protection Coordinator.
 - County Attorney Thiele indicated that Staff person is actually a City Staff person.
 - Ms. Corrine Taylor introduced herself as the Aquifer Coordinator. She reported this position has been a City Staff position since the inception of the Code in 1992. Ms. Taylor indicated a large part of this effort is to provide consistency throughout the entire code, to correct references to the County, to the City, to the person responsible for implementing the Code and also to make the definitions consistent with State definitions.
 - Commissioner Thaeli asked the County Attorney when the 2nd public hearing is scheduled. County Attorney Thiele informed the Board the 2nd hearing would be held at the Board's regular meeting in December, 2005. Commissioner Thaeli stated he appreciated Commissioner Grippa's comments.
39. First of Two Public Hearings on the Chapter 163 Development Agreement for Fallschase

- Commissioner Thaelle informed everyone how he was proceeding with this Hearing. Commissioner Thaelle stated he would:
 - 1) ask the County Attorney to provide an overview
 - 2) ask the County Administrator for comments
 - 3) invite Special Counsel, Cari Roth to make a presentation
 - 4) Commissioner Proctor had requested time to speak
 - 5) the Board would hear from the Applicant
 - 6) the Board would listen to public comment
 - 7) the Board would discuss the issue
- Commissioner Grippa suggested the Board adopt a three-minute limit for the public speakers.
- County Attorney Thiele suggested the Board make a motion to allow the lawyer representing the Applicant, and Ms. Roth, representing the County to speak longer than three minutes.
- Commissioner Sauls stated the Board should give each side enough time to articulate just what they want the Commissioners to understand without a time limit. Commissioner Thaelle agreed with Commissioner Sauls.

Commissioner Grippa moved, seconded by Commissioner Rackleff that the Board adopt a three-minute speaking limit for all speakers except the Applicant's representative and the County's representative. The motion carried 7-0.

- County Attorney Thiele stated that by agreement of the parties the County Attorney's Office position is that the 163 Agreement is a quasi-judicial hearing. The witnesses for the Applicant and the witnesses for the County Staff are going to be put under oath. County Attorney Thiele then presented the format for the proceedings:
 - The Applicant would speak first with regard to their presentation including whomever they want from their professional staff to discuss the application.
 - Thereafter, there would be a presentation by County Staff including a summation by Cari Roth
 - Next, members of the public would speak
 - Cross-examination of the witnesses would not be done; but could be requested by the Chair to the extent that the Applicant or the County Staff had a question for one of the speakers
 - Thereafter, the County Commissioners would discuss the matter.
- County Attorney Thiele reminded the Commissioners that to the extent they have had any ex-parte communication regarding this issue this would have to be disclosed on the record at this meeting; and, if any ex-parte communications occur between now and the time of the next public hearing the Commissioners would need to disclose this information also.

- Commissioner Proctor asked the County Attorney what factors in law triggers this hearing tonight to be considered a 'quasi judicial' proceeding to the extent that people speaking have to be sworn in.
- County Attorney Thiele stated that there are very few statutory requirements; but the case law over the last 14 years has indicated that decisions of local government, and elected bodies are generally considered now to be quasi-judicial.

Applicant Speakers:

Mr. Robert Apgar, representing the Applicant, A.I.G. Baker

- Asked the County Attorney since the Applicant was going first would they have an opportunity for rebuttal. County Attorney Thiele indicated this was correct.
Mr. Apgar discussed several issues:
- Explained that what the Board was reviewing is a Development Agreement designed to put an end to the controversy as to what, will, or may be developed in the Fallschase DRI.
- Stated A.I.G. plans to: 1) specify what the development will be, 2) present the Board with a Master Plan, 3) present a plan for how that development will be carried out. A.I.G. will make no further applications for development
- Noted there are two pre-conditions to A.I.G. closing the contract to purchase the land: 1) securing the Development Agreement from the County, and 2) securing the PUD amendment to follow to implement the master plan
- Mr. Apgar expressed the most significant point in the Development Agreement before the Board is that upon approval of the plans, and approval of a site plan for the commercial development, (the first phase that A.I.G. wants to develop), they will then 'donate' the balance of the lakefront property to the County.
- Mr. Apgar outlined the major points of the Development Agreement.
 - 1,514 residential units - down more than about 1,000 authorized development units in the DRI
 - 50,000 square ft of office - down considerably, about an 800,000 sq. ft. reduction from what is authorized in the DRI
 - process for the PUD approval
 - development standards to apply to the Project in lieu of the County's current land development regulations

Mr. Apgar declared this Development is not subject to the County's current land regulations because it was authorized as a DRI in 1973. It cannot be developed in a reasonable manner subject to the County's current regulations because the regulations have become so stringent. Mr. Apgar stated this Development is not subject to the current regulations. Mr. Apgar noted A.I.G. Baker's donation of several traffic improvements.

Mr. Apgar argued the main legal issue:

- The legal issue, the key Florida Statute that bears on this question, Section 163.3167(8) of the Florida Statutes – establishes the relationship between the County's planned and land development regulations and developments of regional impact. The wording is very important. There is nothing in this Act, referring to the fact that Chapter 163 shall limit or modify the rights of any person to complete any development that has been authorized as a Development of Regional Impact. The DRI is the controlling law. Chapter 163 is the County's authority for every other land use action the County takes under the law. The Comp Plan is authorized there. All of the County's land development regulations are authorized there. The DRI is the source of the development rights that AIG Baker seeks to exercise.
- Mr. Apgar then went over the rest of the major points of the Development Agreement and discussed other legal points.

Mr. Ron Carlson, Executive Vice President, A.I.G. Baker, 1701 Lee Branch Lane, Birmingham, AL - sworn in by Emma Smith, Growth Management

- Gave a presentation on the Overall Master Development Plan that detailed a map showing the placement of the commercial site, mixed use area, location of proposed theatre, proposed two large department stores, entrances, and smaller retail stores. Mr. Carlson outlined the rest of the plan and summarized the acreage and the planned uses to be applied. Mr. Carlson noted A.I.G. is going to pay for all the traffic improvements in their plan. Mr. Carlson then:
 - Went over the architectural plans for the residential area noting the plans called for a nominal intrusion on the flood plain.
 - Talked about the houses on the 'fingers' and the amount of fill.
 - Showed the Board plans for housing with specific elevation numbers.
 - Showed how retaining walls would be used to capture run-off.
 - Wanted to inform the Board in conclusion that A.I.G. has worked long and hard to figure out a way to responsibly develop this property and be a good member of this community.

Mr. Rick Bateman, Attorney for Fallschase and Lamar Bailey, 300 E. Park Avenue stated he wanted to get to the heart of the matter on several issues:

- "substantial deviation" – the residential units have been reduced from the approved DRI from 2,572 to 1,514 – the office development reduced from 425,000 sq. ft. to 50,000 sq. ft.
- The DRI and the PUD approved in 1974 for the commercial 825,000 sq. ft. is not an increase in the amount of commercial allowed by the DRI - the DRI says "25.4 acres with a 75 ft. height restriction", plus 180,000 sq. ft. plus 5,000 sq. ft. in three different places, plus mixtures down on the lake bottom. Those figures

were approved by the County in the PUD that was a part of the DRI.

- Mr. Bateman then quoted Mr. David McDevitt, Growth Environment Management Services Director: "This zoning district which is outlined in the improved Fallschase PUD document allows for multi story commercial development that could theoretically provide for the 850,000 sq. ft. of commercial development being proposed in the current Fallschase 163 Agreement". Mr. Bateman argued that it can't be a 'substantial deviation' if the approved PUD and DRI cough - up. This development is not on the lake bottom. It is on a lake top.
- The City and the County are spilling polluted stormwater into upper Lake Lafayette. 60% of the urban Tallahassee stormwater that hits this pavement goes into upper Lake Lafayette. 54% of the water that goes into this lake is from Weem's pond – untreated polluted water out of the City storm detention pond.
- Mr. Bateman then discussed the traffic mitigation and detailed the improvements A.I.G. is planning to make.
- Pointed out that Fallschase is vested against concurrency.
- Reminded the Commission about the donation of the southern property.
- Noted A.I.G. donated over 35% of this property – something no one else has done.

Mr. Carlson stated that it's been 32 years since this was approved. He said enough is enough. Told the Board they can never please everybody. Mr. Carlson asked the Commission to please move this matter to the second public hearing; and please vote to approve it at that time so they can move forward and build this development.

County Staff members were then sworn in by Ms. Emma Smith prior to speaking

County Staff:

Mr. David McDevitt, GEM Development Services Director, provided a memorandum:

- Mr. McDevitt wanted to clarify what he said in the attachment referred to by Mr. Bateman when he said he 'quoted' him earlier. He also wanted to re-iterate something Mr. Apgar said - 'what development has been authorized under the Chapter 380 DRI Development Order'. Mr. McDevitt thinks this is really the crux of the issue. Mr. McDevitt explained that Mr. Bateman only quoted half of the sentence he wrote. Basically that sentence says that (they did not do a site plan to determine if this was possible) if you applied the County's development standards that are in the zoning code at the time this project was approved for the C-1 zoning

district you could *hypothetically* achieve 850,000 sq ft of commercial development on the 25.4 acres of property.

- Commissioner Thael asked if Mr. McDevitt would explain the qualification.
- Mr. McDevitt explained that if one looked at the development standards that were associated with the C1 zoning district, which was the zoning district that was noted in the PUD – he wasn't sure if it was that clear in the actual Application for Development Approval - (but it was a part of the PUD that was approved by the County). If one applied the development standards that were attached to that zoning district in 1973, or 1974 when this was plan was adopted you could theoretically achieve 850,000 sq. ft. of commercial on the 25.4 acres that was identified in the Vested Rights Certificate which the County issued in 1991 that indicated the extent of the commercial development allowed. However, Staff did not do a site plan. He stated again, the mention Mr. Bateman referenced was to a *theoretical application* to the 25.4 acres.

Mr. McDevitt then addressed the traffic issue:

- What was approved for the commercial component of this Development. Staff has had to make some assumptions about this Development. When the County adopted the Comprehensive Plan they adopted an adequate facilities Ordinance or concurrency management Ordinance to implement that.
- Since this project was vested from a Comprehensive Plan; Staff had to reserve capacity on roadways for this project. The only tool Staff had to go by was the Vested Rights Certificate issued by the County in 1991. Based on an application that was submitted by the then-owner. The certificate indicated the Fallschase DOR was vested for:
 25.4 acres of commercial development, 450,000 sq ft of office development, 2,572 dwelling units. The problem arises when one questions what goes onto 25.4 acres of commercial. Staff assumed approximately 12,000 sq. ft. of commercial development per acre which is fairly generous based on other developments in Tallahassee. This assumes commercial development around 320,000 sq. ft. Staff therefore assumed the total traffic for Fallschase during p.m. peak hours to be around 3,600 trips.
- Mr. McDevitt reported the Applicant made assumptions about internal capture, and passer-by diverted traffic when they came up with a Draft Traffic Assessment Memorandum provided to the County on October 3rd.
- 320,000 sq ft of commercial development has a different impact on the Mahan corridor when compared to 850,000 sq ft of commercial development. The Applicant has come up with some typical intersection improvement which will improve the traffic operation around them; their Draft does

not show how they get to the requirements for these improvements.

Mr. McDevitt concluded that Staff will not have a standard traffic impact analysis for this project until the determination as to what the project is vested for or approved to do under the 360 Development Order.

John Kraynak, GEM Environmental Compliance Director, provided a memorandum.

Prior NOPC – 623 acres was modified through the NOPC to include an additional 70 acres – A.I.G. agreed to meet the current regulations - site plan does not accomplish that in 2 areas: 1) floodplain and 2) wetlands

- lots being created in the flood plain that wouldn't be allowed in today's code in the EMA – hard to determine whether they plan to use one of the wetlands within that 70 acres for stormwater.
- there could be fairly long periods where the water is on 3, possibly four sides of the commercial buildings
- new roads proposed – when you bring fill in you need to provide compensating volume
- fill on the non altered flood plain areas being proposed – Staff has same concern – compensating volume
- outside of these lots allowing mowing a hundred foot strip beyond the proposed lot lines into the flood plane – that would violate the EMA and the Lake Lafayette Special Development Zone 1, disturbance in the flood plains
- the ecosystems – the lake has significant fluctuations. There are a lot of creatures in these lateral areas that provide protection and balance. Mowing alters the natural vegetation
- wetlands need to be identified – a natural features inventory should be included
- Staff suggests following the US Army Corps of Engineers guideline for wetlands on site
- the wetlands provide a natural cleansing – it looks like A.I.G.'s plan proposes using two of the wetland areas for stormwater facilities
- direct stormwater discharge into Lafayette sink – serious concern for Staff
- 80 – 85 lots in the floodplain – being created without having to meet floodplain hazard mitigation requirements

Joe Brown, Public Works' Engineering Services Director, provided a memorandum:

- Noted that several of the issues raised are being responded to positively by the developer.

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Mr. Brown stated he would touch on the issues that haven't been addressed yet:

- The Developer would make an Application, within 10 days Staff must respond, the Developer then has 5-10 days to respond. With that response the matter goes straight to DRC. DRC then makes a decision, the matter then goes straight to the Board. Staff's concern is that normally there is 'more' to that. If Staff can't review the response of the Applicant – Staff would have to take their comments to the DRC. Mr. Brown said he is mainly concerned this process will hurt the Developer. The Developer will end up with some rejections, and this lack of time for Staff review could also put the County in an awkward position.
- The document grants the developer the authority to install signals at certain locations. There have been no evaluations, no studies. A.I.G. needs to provide better wording.
- This document gives the developer the right to re-construct Bucklake Road. However, it does not provide for standards, doesn't provide for County review and approval, nor any of the normal requirements Staff would put in a JPA with a private developer working on the County's roads.
- Mr. Brown stated he does not believe A.I.G.'s intention is to not address these issues but he has to take the document as he reads it. The document needs additional wording as it relates to the below detailed issues:
 - Doesn't provide for sufficient right of way for the construction of Buck Lake Road.
 - Critical component will be a stormwater pond – the concept plans show residential development on that site – supposed to be a stormwater site
 - Median cuts
 - Document speaks to developer making improvements to the intersection of Weems Road – Weems Road is a City Road – the City is not a party to this contract.
 - Will need to replat or vacate existing subdivisions
 - Several areas are not included in the 163 Agreement that are out parcels needing to be addressed

Mr. Wayne Tedder, Director Leon County Planning Department, provided a memorandum:

Mr. Tedder designed a table included in the comments provided to the Commission. Summarized his report:

- Noted he researched the DRI – only document he had to go by.
- Vested Development – 2,572 residential lots or dwelling units are vested, also 25.4 acres of commercial development – but he could not locate any square feet identified of the commercial development – only the acreage

- 425,000 sq. ft. of office was identified – bottom of the Vesting Certificate stated a final PUD must be filed and approved for subsequent phases and all development must meet the Environmental Management Act and land development regulations in place at that time. Mr. Tedder indicated that what this tells him, as Mr. McDevitt indicated earlier is that Staff needs a final determination of exactly what the development is vested from.
- If all the development presented is vested, then Mr. Tedder's review from a Comprehensive Plan perspective is very limited. Essentially it would be vested from: any of the provisions from the Comp Plan, with the exception of the environmental.

Planning Recommendations:

Environmental:

- As it stands it appears that the environmental provisions in the Comp Plan would apply. The Comp Plan limits development in:
 - Potential wetlands
 - Flood plain
 - Limits residential development in unaltered flood plains to one dwelling unit per 40 acres

Mr. Tedder stated again that in order to determine what provisions of the Comprehensive Plan need to be provided Staff needs a document that very clearly articulates the vested densities and intensities as well as the applicable policies in the Comprehensive Plan for this project to be reviewed properly.

Ms. Cari Roth, Bryant Miller & Olive, Special Counsel to the County provided a memorandum. Ms. Roth addressed the issue of the DRI:

- Stated the issue is what was vested
 - This is one of the first DRI's ever passed in the State – it is clearly lacking in details: no expiration date, no dates associated with phasing although it does have phasing
 - There is just a difference of opinion between the Applicant and the Developer and the County and Legal Staff
 - The issue of 'vesting' goes to who addresses the impacts of this Development
-
- Ms. Roth then asked what should the process be. The County has asked the Developer to provide a full-blown traffic analysis. The Developer has provided a much more shortened traffic analysis. This analysis doesn't allow Staff to tell the Board whether the proposed traffic mitigation is adequate or not.
 - Ms. Roth mentioned the environmental issues Staff informed the Board of. She then noted the following:
 - Legal Issue – Amendment made to the Development Agreement this summer said the additions of property made would comply with the Comp Plan and the LDR -

there are various parts that do not. Those are not 'vested' parcels they are additions that are clearly subject to the Comp Plan.

- If the Board approves development in the floodplain she would have to insist that there be waiver letters received from the property owners there.
- Releases of Liability – there is nothing in the document now that releases the County from liability for any past actions of the County – either from the developer or from the landowner. The legal staff would very much like to see Releases of Liability.
- Donation of Acreage – Staff has noted that one acre is not very useful; and, if there is a donation they are asking that it be ten acres
- Out-Parcels – there are out-parcels owned by people other than Lamar Bailey included within the Development Plan. A.I.G. fully intends to buy those. However, as a way of warning – if the County gets to the point of adopting this Development Agreement without A.I.G. obtaining the commitments to buy those properties the County would have to 'assign development rights' to those out-parcels.

Commissioner Thaeli asked the Applicant if they wished to respond to the concerns Staff and Ms. Roth outlined.

Mr. Apgar said he preferred to save the Applicant's response to the above statements until the 2nd Hearing. The response will be extensive and require several technical people as well as attorneys to respond to some of these points. Frankly, A.I.G. has already agreed to some of the points mentioned. It would be A.I.G.'s preference to return at the 2nd Hearing, if granted, with a more concise response.

- County Administrator Alam indicated that subsequent to discussions with Mr. Apgar and Mr. Bateman A.I.G. has already agreed to provide the following:
 - Letters from the homeowners for the 80 home sites- so that the County would not have the liability. Provide waivers regarding flooding.
 - Conservation Easement - A.I.G. has agreed to donate the 200 plus acres – lake bottom. Deed it to the County. After doing the ecological and environmental studies the County can determine whether that 200 acres could be used to improve the water quality in the lake and protect the water aquifer. This is an important point. The County would receive that 200 acres in 'fee simple' without the taxpayers paying for it.
 - Traffic mitigation – A.I.G. has agreed to improvements on Buck Lake Road, such as the right of way and improvements

at the intersection at Mahan Drive. The dollars the County had budgeted to pay for those improvements then could be used to pay for the 90 East/Mahan Project.

- County will not have any fiscal liability if a third party later determines the 163 Agreement is not valid.
 - Suggests that between now and the 2nd Public Hearing Staff can work out a lot of the technical issues raised by Mr. Joe Brown and Mr. John Kraynak.
-
- County Administrator Alam recommends moving to the 2nd Public Hearing. In the meantime County Administrator Alam recommends everyone work out all the technical issues brought up by Staff.
 - Commissioner Proctor asked County Attorney Thiele could the Commission publicly notice a meeting to go look at the site to review the 51 ft. contour line, the site's location in proportion to other elements being proposed, etc. Commissioner Proctor asked can the Commission legally accept the invitation offered by A.I.G. to go to the site and receive a tour to answer many of the questions germane to the matter.
 - County Attorney Thiele informed Commissioner Proctor that if more than one Commissioner goes to the site at any one time that would be deemed to be a 'meeting'. County Attorney Thiele reported such a visit would need to meet the following requirements:
 - need to be noticed in advance
 - the public would need to have an opportunity to be present
 - it would need to be recorded by the Clerk as an official meeting of the Board of County Commissioners
 - whatever information gleamed from that meeting would need to be disclosed on the record.
 - County Attorney Thiele then explained that if Commissioners went to the site individually, it would not require a 'noticed meeting'; but, whatever information was gleamed from that visit would have to be disclosed on the record.
 - Commissioner Proctor stated he will not feel comfortable until the Commissioners go to the site with the public and try to answer and ask questions.
 - Commissioner Sauls stated she has questions of Staff on the substantial deviation of commercial.
 - Commissioner Thaele stated he planned to have commission discussion subsequent to the public speaking on this issue.
 - Commissioner Grippa stated he also wanted the opportunity to ask questions of Staff.

The following is a list of Public Speakers who **do not support** the proposed Fallschase Development:

- Charles Pattison, Executive Director of 1000 Friends of Florida
- John White, President of Neighborhood Association Meadow Hills
- Jim Cavanagh, Member of City/County Water Resource Committee
- Tom Allen, Representing the Greater Tallahassee Chamber of Co
- David Eastman
- Robert Downie, Florida Department of Transportation**
- Helen Keaton
- Rick Kearney, Developer of Summit East
- Lewis Jones – (stated his concerns will be voiced by John Dew)
- Jim Wells, Vice President Weems Homeowners Association
- Nancy Miller
- Linda Jamison, Big Bend Sierra Club
- Gerry Miller
- John Dew, President of Buck Lake Alliance
- Kent Wimmer, President of Avondale Homeowners Association
- Thure Caire, Environmental Outreach Coordinator for Florida Democratic Party
- Michael Olsen
- Monica Langenhan – (waived her time)
- Valerie Nielson
- John Hedrick
- Leroy Peck, President Weems Plantation Homeowners Association
- Maryellen Clemens
- Stephen Martin
- Betsy Galocy
- Carlos Alvarez, representing Buck Lake Alliance
- Robert Downie, FDOT Assistant General Counsel

***Board comments during Mr. Downie's first statements:*

- Commissioner Proctor noted that Mr. Downie who stated he was speaking for the Florida Dept. of Transportation should be sworn in.
- County Attorney Thiele stated Mr. Downie is an attorney at FDOT; and is merely advocating the position of the Florida DOT, and is not speaking as a fact witness so he need not be sworn in.
- Commissioner Grippa asked if the Commissioners could ask questions of Mr. Downie if he was speaking for DOT.
- Commissioner Proctor questioned whether this was correct protocol.
- Commissioner Thaele asked Mr. Downie if he would stay so that individual Commissioners could ask questions regarding substantial issues.

***End of Board comments during Mr. Downie's first statement*

The following is a summarized list of the main concerns outlined by the speakers against the proposed Fallschase Development:

- Traffic Impacts on the area was a major concern for almost every speaker.
 - Widening of Mahan Drive is essential
 - Don't want the major increase in traffic this development would bring to their neighborhoods
 - There is no basic Traffic Study to refer to regarding – number of trips this project would actually involve; addressing the intersection of Buck Lake and Mahan
 - No right turn lane to go to Mahan east from Weems Road
 - Summit East asked Board to consider impact this Development would have on their facilities – without the widening of Mahan all their developments including 2 new office buildings, new hotel will come to a halt
 - Road will be forced closer to homes in Weems neighborhood
 - Don't want a road installed to Weems
- Clarify Fallschase Development vested rights prior to holding the 2nd Public Hearing
- Stormwater treatment was another major concern:
 - Don't want an underground stormwater treatment chamber
 - Impact on environment and ecological systems from stormwater runoff
 - Water quality issues need to be addressed/Want impact on aquifer considered
- Environmental and ecological concerns:
 - Weems plantation residents concerned about 'how' their area will be 'buffered' since they have vegetation
 - Sinkholes - concerns about 'carst' – limestone disturbance of carstic ground can trigger new sinkholes. There are already sink holes in this area. How will new home construction survive the sink holes.
 - Major concerns about protection of the lake, trees, and upsetting eco-system with this construction.
 - Phosphorous concentrations measure discharged from Weems pond lower than the TMDL's for streams established by EPA
- Flood plains:
 - Flooding caused by building at low elevations
 - Some lots planned are below the flood plain level
 - Homes had water in 1994 that were built above the current standards planned for Fallschase
 - Increase in current volume of water if flood plain disturbance is too great.
- Impact on Schools:
 - Traffic increase affecting students, parents, teachers at Buck Lake Elementary, Swift Creek Middle School and Lincoln High School.
 - Schools already at capacity or over.
- Walmart

- Several speakers expressed serious opposition to the location of a Walmart in their neighborhood for aesthetic as well as traffic impact concerns.

Several speakers did express their appreciation for the A.I.G. Baker team's efforts to resolve the above-listed issues and felt A.I.G. was trying to address these issues by coming out and speaking to them. However, these issues have yet to be resolved.

The following is a list of public speakers *who do support* the proposed Fallschase Development:

- Tom Allen, Representing the Greater Tallahassee Chamber of Commerce
- Dr. Gary Zanz, Professor Emeritus, Florida State University
- Ms. Henree Martin, Tallahassee Board of Realtors

The following list summarizes the reasons the speakers in support of the proposed Development gave for their support:

- Support development that potentially stimulates infra-structure enhancement; transportation corridor development; and overall economic development.
- Economic – monies lost in taxes lost over last 32 years
- Enormous equity of morality, must consider legal responsibility to Applicant
- Logistics – City/County needs this Development because of congestion
- Social issue – buyers will have a gracious living potential
- Realtors feel this project will allow them to get more residential properties on line and help them with the affordability and availability of housing in Tallahassee.
- One of the speakers noted A.I.G.'s ability to be flexible and to work with the neighbors and people should acknowledge their appreciation.
- Number of trips meets the County standard.

Mr. Downie was asked to address the Commission again.

Mr. Downie listed several concerns DOT has:

- Traffic Impacts on the DOT facility specifically
- Old application talks about 25.4 acres of development; however, speaks to 8.3 acres of that 25.4 was to be dedicated to a Transit Center installed to serve future 'light rail'
- Vesting Certificate does not speak to the number of stories that can be built on the acreage

- Primarily US 90 – the intersection at Capital Circle & Hwy 90 traffic impact
- Net new external trips – document does not indicate this number

Commissioners raised several issues with Mr. Downie including:

- Commissioner Grippa – Was Mr. Downie aware that Mahan is a State road. Thought Mr. Downie indicated earlier the traffic issue of widening Mahan was a County responsibility. Current traffic problems on Mahan Road should be dealt with by DOT.

- When is DOT going to widen Mahan

Mr. Downie responded monies are planned to be allocated in 2007 he believes. He thinks there may be a reimbursement.

- Commissioner Grippa – asked if the number of stories built on property is a DOT concern.

Mr. Downie responded that the amount of traffic generated by the amount of development is the concern – no concerns in regard to the height of a building.

- Commissioner Grippa raised the question of DOT's concern with vesting and if the project is vested what responsibility would DOT have for Mahan Drive.

Mr. Downie responded that what needs to be built is the concern. Mahan may need to be six lanes as opposed to four lanes in the not too distant future to accommodate traffic generated by this project.

- Commissioner Grippa argued it is none of DOT's business to talk about traffic when DOT has not spent any monies toward widening Mahan which is DOT's road.
- Commissioner DePuy noted he is perplexed by Mr. Downie's appearance as an official representative of the Florida DOT. Commissioner DePuy stated monies are in place to four lane Mahan and that DOT has acquired the right of way. According to Staff Florida DOT has 6.6 million planned in yr 2010 to put toward this project. Mr. Tony Parks, informed the Board the County has \$16 million budgeted in 2008 for advanced funding of this project as long as the price stays at \$24 million. Commissioner DePuy expressed his concern that Mr. Downie had no awareness of DOT's plans for Mahan.
- Commissioner Proctor noted he would defer his remarks and send his twelve questions directly to the Florida DOT Secretary, District 3.
- Commissioner Rackleff thanked Mr. Downie for coming and spoke to the insufficient data available to Mr. Downie who apparently came with incomplete information because he had only been provided with such. Commissioner Rackleff reminded the Board they are trying to get SIS (Strategic Intermedial System) funds for this project. Commissioner Rackleff stated

the Board needs Access Management to be in place for this funding to go through.

- Commissioner Winchester asked Tony Parks about the right of way acquisition from Dempsey Mayo to I-10 - was it true that property has been acquired. Mr. Parks reported the 200 ft right of way has been existing. Commissioner Winchester wondered where the funding is coming from. Mr. Parks informed the Board that at the time they advance funded the five year road program the price was \$16 million, however the price has since increased to \$24 million. Mr. Park stated DOT has set aside \$16 million for construction in 2010. When the CRTPA re-prioritized the projects at the last meeting Mahan Drive dropped to number 6 on the priority list.

There was further Board discussion with Mr. Downie.

- Commissioner Proctor asked County Attorney Thiele if the Commissioners could write down their ex-parte communications and submit them in an effort to save time.
- County Attorney Thiele stated the ex-parte communications could be written as long as they were provided to the Applicant and put in the record. County Attorney Thiele stated this needs to be done in sufficient time prior to the next public hearing. County Attorney Thiele reported these communications need to be submitted to the Clerk and should address any communications since June 16, 2005 up to the time of this meeting.
- Commissioner Sauls asked County Attorney Thiele if these communications included e-mails. County Attorney Thiele stated yes, e-mails were included whether or not they had been responded to.

Commission Discussion

- Commissioner Winchester asked when the Board was contemplating holding a 2nd Hearing.
- County Attorney Thiele stated a 2nd Hearing has not yet been advertised and that the date is pending the Board's decision at this meeting. County Attorney Thiele stated it had been contemplated the 2nd Hearing would be scheduled for the November 8, 2005 Board Meeting.
- Commissioner Winchester stated he did see some type of common thread for the first time between the neighborhoods involved and A.I.G. Baker. Commissioner Winchester commended Commissioner Proctor for his diligent and hard work on this project.

Commissioner Winchester moved, seconded by Commissioner DePuy, to schedule a 2nd Public Hearing, (date to be specified pending discussion)

- Commissioner Rackleff expressed concern over the date for the 2nd Public Hearing being set for the November 8, 2005 Meeting due to time constraints involved in addressing issues raised by Staff and the public.
- County Attorney Thiele reported the same guidelines in terms of noticing the Hearing that applied before would have to be adhered to. County Attorney Thiele reported the deadline for having a document in place for the Public Hearing would be Monday, October 31st at 5:00 p.m. if the 2nd Hearing was to be scheduled for the November 8, 2005 Meeting.

There was considerable Board discussion over setting the date for the 2nd Public Hearing on this matter.

Discussion included:

- Mention that the Fallschase Development did not follow the Comprehensive Plan. Status of the infrastructure paid for by bonds, issued and sold by the Fallschase Special Taxing District, approximately \$6 million in the 1970's to build infrastructure. Bond money is essentially public money. In 2000 this infrastructure was sold to Fallschase Utilities, Inc., a private company owned by the Baileys, the Decision was made by the Board of Trustees of the Fallschase Community Development District that those were the Baileys, too. If the Agreement is terminated between Fallschase Utilities to provide utilities the Development District will pay Fallschase Utilities the fair market value of the facilities, and the present value of future connections. (Commissioner Rackleff)
- Very excited to see that at least four hours of discussion from the public has occurred considering the time put into this project. This document is imperfect in part because no one working on it is 'perfect'. Very pleased to see the County come into the custody of the lake bottom. This Applicant has been quite agreeable to see that a high standard of environmental concern be given to the lake bottom by deeding it to the County. Incorporation of the WMBE standards in a project that will expend \$400 million. Research indicated that A.I.G. is one of America's top fifteen corporations. Feels that he has been 'cold-cooked' by Staff on many of their objections. Expressed astoundment at the number of points Staff presented as concerns considering these points were not expressed after being asked for consistently. Wants to avoid a legal blood bath costing tremendous amounts of money if a lawsuit was filed. Presented a Memorandum dated October 4th asking Staff for their input. If this Agreement fails blame the Negotiator. (Commissioner Proctor)

Thanked everyone. Studied materials. Confirmed that Fallschase does have special consideration due that the County Commissioners granted them years ago. Under the law the Board is compelled to work within this scope of the law. Asked the County Attorney to give a brief presentation to prove to the 1

public that the Board is not in the Developer's pocket. The Board is actually looking out for the taxpayers working within the framework of a deal made so many years ago. Feels it would be more appropriate to hold the 2nd Public Hearing at the November 22nd Meeting. (Commissioner DePuy)

Commissioner DePuy asked the maker of the motion, (Commissioner Winchester) with himself as the second to amend the motion to making the 2nd Public Hearing on the 22nd of November.

Commissioner Winchester agreed.

Commissioner Winchester moved to amend his motion: Commissioner Winchester moved, seconded by Commissioner DePuy, to schedule the second public hearing on the Fallschase 163 Agreement for November 22, 2005 at 6:00 p.m.

The motion carried 5-2, with Commissioners Rackleff and Thael opposed.

- County Administrator Alam asked for direction from the Board. County Administrator Alam indicated this 163 Agreement is a vested DRI. County Administrator Alam asked *is this Agreement vested from the Comp Plan or not*. If it is simply vested from the consistency and the concurrency then certain criteria has to be met. County Administrator Alam reminded the Board that all the concerns over the lake bottom in regard to pollution and environmental issues would be resolved because the lake bottom would be in public hands. *County Administrator Alam asked Cari Roth is this Agreement vested from the Comp Plan*. If not, County Administrator Alam stated all this planning and time would be a waste because Fallschase would be built in pieces - from experience the result would be disastrous. County Administrator Alam reported some of the Staff concerns cannot be met unless they have some direction from the Board.
- County Attorney Thiele stated he understood that's what Commissioner DePuy asked the County Attorney's Office to resolve before the next Public Hearing. However, in summary, the answer is - they are vested in part, they are not vested in total. County Attorney Thiele reported the Staff position has been: a development that gained vested status from the Comprehensive Plan does not need to meet the consistency or the concurrency requirements of the Comprehensive Plan. If the Land Development Regulations existed before the Comprehensive Plan; then, it is the County Attorney's position that these Regulations apply.

- County Attorney Thiele explained that the Environment Management Act was adopted not as an implementer of the Comp Plan. Therefore, it has been the County Attorney's position that while they are vested for consistency which is intensity and density of the development rights and concurrency which is the list of 7 – 10 items, the most important of which is traffic there are still other development regulations that apply. County Attorney Thiele explained for example, when this Agreement was adopted the County did not require people to plat. County Attorney Thiele stated they would absolutely require this Development to go through site plan review and platting. Platting did not begin in Leon County until 1986. County Attorney Thiele stated that what the County cannot do is impose the regulations to the extent that they lose their vested intensities. It has been the County's position that the Development of the lake bottom was prohibited by the land development regulations and that it would be required that the Development go uphill. The other problematic issues are:
 - Two fairly good-sized pieces of the property were added to the DRI by a Notice of Proposed Change in June or July that Order by the Board clearly says they are not vested from the Comprehensive Plan and they must comply with all current regulations.
 - This Board needs to grant the Applicant some sort of a variance or deviation from those standards.
- County Attorney Thiele reported he is not convinced that these problems cannot be resolved. County Attorney Thiele suggested the Board needs have a more 'thorough' outline of how this Master Plan fits into those issues just detailed and determine if that requires the Board to grant variances.

More Board discussion ensued.

Commissioner Grippa moved, seconded by Commissioner Sauls to extend the meeting to 11:30 p.m. The motion carried 6-1, with Commissioner Rackleff opposed.

- Commissioner Sauls asked can the Commissioners still ask questions of Staff since the Public Hearing had closed.
- County Attorney Thiele suggested questions for Staff should be asked as part of the Agenda package for the 2nd Public Hearing.
- Commissioner Sauls stated her concern is regarding the 850,000 sq. ft. of commercial. Commissioner Sauls stated Staff has taken the position that 25.4 acres is equal to 320,000 sq. ft. of development. The intensity is 33,465 sq. ft. per acre which is at least three times more intense than any comparable development in the community. Commissioner Sauls asked how does 850,000 sq. ft. of commercial compared to Staff's analysis of 320,000 sq. ft. not a 'substantial deviation'.

- County Attorney Thiele stated that either his office or the outside attorney's office will address that. County Attorney Thiele stated as Commissioner Proctor said when this application came through the Applicant had three law firms representing them. The County had none. County Attorney Thiele stated the County needed assistance; and, that is why Ms. Roth has been working with the County.
- Commissioner Grippa asked County Attorney Thiele if the Applicant is vested from concurrency why they have to do a traffic study.
- County Attorney Thiele answered to show that the new development fits within the 3,600 vested trips.
- Commissioner Grippa stated but if they are within the intensity and density of the current DRI in aggregate.
- County Attorney Thiele stated Staff differs on this question. Staff believes that the entitlement is only approximately 300,000 sq. ft. of retail commercial.
- Commissioner Grippa asked if Staff didn't also indicate that the Development could go as high as seven stories.
- County Attorney Thiele indicated that's just how the footages are stacked and that the question is when they reduce by 400,000 the office and reduce by nearly 1,000 the residential units and then increase the commercial – does the mix still hold. County Attorney Thiele reported that is the concurrency issue.

There was further Board discussion.

- Commissioner Grippa thanked the people from Weems Road who attended the meeting. Commissioner Grippa expressed concern over some of the speaker's attitudes being along the lines of "I've got mine. I don't care about yours". Commissioner Grippa reminded the Board they talked about buying the lake bottom and it came to millions of dollars. Commissioner Grippa asked the Board to keep in mind they sent Commissioner Proctor on a task – to protect Lake Lafayette. Commissioner Grippa stated Commissioner Proctor came back with a 'donation' of the lake bottom and now the Board is trying to find yet another reason *not* to do this Development. Commissioner Grippa asked why don't we instead find a reason *to do it*. Commissioner Grippa suggested the Board not just keep 'presenting'; but, instead find specific ways to deal with problems presented. Commissioner Grippa also advised the Board should be mindful of the great possibility of a lawsuit over this matter. Commissioner Grippa stated the Board should thank Commissioner Proctor.

More Board discussion ensued.

- Commissioner Proctor stated the number of jobs; the number of road improvements that DOT won't do; and the importance of accessibility to Mahan Drive in case of an emergency for evacuation purposes make the Development worthwhile. Commissioner Proctor stated the big picture is how do we move this project forward. Commissioner Proctor referenced what the County Administrator spoke to regarding is there resolve on this Commission to do this

Development – basically, 'do you want this done, or do you don't want this done'. Commissioner Proctor argued this Agreement will not please everyone.

- Commissioner Proctor stated A.I.G. has done enough; now, it is the Board's turn. Commissioner Proctor reminded the Board A.I.G. has walked in from Alabama with their checkbooks open willing to do more for the County than the State of Florida has been willing to do.

Commissioner DePuy moved, seconded by Commissioner Grippa to extend the meeting to 11:45 p.m. The motion carried 5-2, with Commissioners Rackleff and Winchester opposed.

More Board discussion ensued.

- Commissioner Thaelle asked the County Attorney if there was a legal requirement that they ever have to enter into a 163 Agreement with any developer. County Attorney Thiele stated no. Commissioner Thaelle asked if it is our Staff's belief that there has been a change in the intensities and densities presented in the original DRI. County Attorney Thiele answered that is the determination made by the Special Counsel. Commissioner Thaelle spoke to the element of further study. Commissioner Thaelle stated in a memo from Cari Roth, that the County Attorney and the Special Counsel strongly recommend that the Board not agree to such language specifically stating to reflect that the revised development plan that the County agree in the Development Agreement that the Amendment is not a change to the previously approved DRI PUD and that it does not constitute a substantial deviation to the URI.
- Commissioner Thaelle noted the memo specifically says that after review by Staff the County Attorney and the Special Counsel strongly believe that such a statement is inconsistent with the law, Chapter 380.06 Florida Statute. Commissioner Thaelle reported the memo stated that the provision of the agreement needs to be modified to remove language inconsistent with Section 380.06. Commissioner Thaelle indicated he could not vote for something he does not really understand.

ADD ON:

Approval of a Resolution Supporting the Issuance of Lease Revenue Obligations by the Leon County Research and Development Authority

- County Administrator Alam reported this item does not require the County to obligate any funds.

Commissioner Grippa moved, seconded by Commissioner Sauls to approve Option 1: Approve the Resolution supporting the Issuance of lease revenue obligations by the Leon County Research and Development Authority. The motion carried 6-0, with Commissioner Proctor out of Chambers.

Discussion Items By Commissioners

Attachment # 2
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County Attorney

No additional comments

County Administrator

Introduced Scott Ross, new OMB Budget Manager

Commissioner Sauls

No additional comments

Commissioner DePuy

No additional comments

Commission Winchester

Regarding the proposed coal plant:

- 1) County will be affected environmentally and will have increased utility prices
 - 2) County has not received any information on the proposed coal plant referendum or the need to give citizens more options in regard to utility choices.
 - 3) The Board should be pro-active in considering future energy needs and wants to schedule a Joint Workshop with the City to discuss future energy needs
- Commissioner Grippa stated the scheduling of a Workshop regarding the coal issue should be subsequent to the coal referendum vote
 - Commissioner Rackleff indicated Staff should look at alternative processes and should contact NACo for information on "green" building construction

Commissioner Grippa

Commissioner Grippa moved, seconded by Commissioner DePuy, to appoint Mr. Bob Inzer to the Cultural Resources Commission's Performing Arts Center Subcommittee. Motion carried 7-0.

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Stated concerns over the car show – traffic, etc. Requested Board research better where the County allows this type of event to be held. Are residential areas appropriate, what about fairgrounds, other locations. Other Commissioners also stated they received complaints about the problems caused by the same car show.

Commissioner Grippa moved, seconded by Commissioner Sauls to agenda the issue of the location of events such as the Car Show. The motion carried 7-0.

Remarked about two developments in Bradfordville – one on the Cohen property and one off of Velda Dairy Road. These are Type "B" developments. They have requested an increase in density. Would like an update on the status of these developments since he is the Commissioner for the district involved.

Commissioner Grippa moved, seconded by Commissioner Sauls to have Staff bring to the Board an update on the status of the two developments in Bradfordville. Motion carried 7-0.

Commissioner Proctor

Asked if the County could lower the American flag in honor of Ms. Rosa Parks.

- County Attorney Thiele reported the Board can only grant permission to lower the County flag.
- Commissioner Thael stated he would request permission from the Governor to lower the American flag in memorial and honor of Ms. Rosa Parks upon Commissioner Proctor's request.

Commissioner Proctor requested a Resolution to recognize Ms. Rosa Parks for her contribution to the Civil Right Movement to be presented at a special event in her honor. The Board agreed unanimously.

Commissioner Thael

Informed the Board the Riley House Museum has acquired a huge grant from the Dept. of State to relocate the only remaining one-room schoolhouse in Leon County. Property issue – schoolhouse needs to be re-located want Board to consider granting them the right to use a very small portion of the parking lot belonging to the County behind Barnett Bank and adjacent to the Riley House Museum.

Commissioner DePuy moved, seconded by Commissioner Proctor to agenda the relocation of the Riley House Museum Schoolhouse.

- Commissioner Grippa reminded the Board the parking lot referred to for the relocation has been called a 'valuable piece of investment property'.

- Commissioner DePuy stated he wanted to clarify his Motion. Commissioner DePuy wants the re-location to be a suitable place for the Riley House Museum Schoolhouse.

Commissioner DePuy moved, seconded by Commissioner Proctor to direct Staff to locate a suitable location of County owned property and bring that location to the Board for approval regarding the relocation of the Riley House Museum's One Room Schoolhouse. The motion carried 6-0, with Commissioner Winchester out of Chambers.

Receipt and File

Piney Z Community Development District FY 2006 Meeting Dates

There being no further business to come before the Board, the meeting adjourned at 11:40 p.m.

The next Board of County Commissioners Meeting is scheduled for Tuesday, November 8, 2005 at 3:00 p.m.

Chairman

Bob Inzer
Clerk of the Court